

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG**

TYRON TERREONO ADAMS,

Petitioner,

v.

**Crim. Action No. 1:20-CR-48-2
Civ. Action No. 1:22-CV-103
(Kleeh)**

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 890]

On October 3, 2022, the pro se Petitioner, Tyron Terreono Adams ("Petitioner"), filed *Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody* (the "Motion"). [ECF No. 809].¹

I. REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloi for initial review. On April 26, 2023, the Magistrate Judge filed a Report and Recommendation ("R&R") [ECF No. 890], recommending that the Court deny the Motion and dismiss the case with prejudice. Id.

The R&R informed the parties that they had fourteen (14) days

¹ Unless otherwise noted, all docket numbers refer to Criminal Action No. 1:20cr48.

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from the date of service of the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." ECF No. 890 at 8. It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." Id., see also LR PL P 12. The docket reflects that Petitioner accepted service of the R&R on April 29, 2023. [ECF No. 895]. Petitioner filed no objections.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). An objection must be specific and particularized to warrant such review. See United States v. Midgette, 478 F.3d 616, 621-22 (4th Cir. 2007). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

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II. DECISION

Because no objections were filed, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 890]. The *Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody* is **DENIED and DISMISSED WITH PREJUDICE** [ECF No. 809].

III. APPEALABILITY

Pursuant to Rule 11(a) of the Rules Governing § 2255 Proceedings, the district court "must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." If the Court denies the certificate, "a party may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22." Id. The Court finds it inappropriate to issue a certificate of appealability in this matter because Defendant has not made a "substantial showing of the denial of a constitutional right." See 28 U.S.C. § 2253(c)(2). The Court, therefore, **DENIES** issuing a certificate of appealability.

It is so **ORDERED**.

The Court **DIRECTS** the Clerk to enter a separate judgment order in favor of the United States in Civil Action Number 1:22cv103; to transmit a copy of this Order to Petitioner via certified mail,

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return receipt requested; to transmit a copy of this Order to counsel of record by electronic means; and to strike Civil Action Number 1:22cv103 from the Court's active docket.

DATED: June 20, 2023

Tom S Klee

THOMAS S. KLEEH, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA